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#### REMARKS

Claims 1-21 are pending. Claims 1, 3-5, 7 and 10 stand rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 5,133,294 to Reid ("Reid"). Claims 1-7, 10-17 and 20 stand rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 2,898,146 to Yudenfreund ("Yudenfreund") in view of U.S. Patent No. 3,688,803 to Pavia ("Pavia"). Claims 8, 9, 18, 19 and 21 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Yudenfreund in view of Pavia and further in view of U.S. Patent Application Publication No. 2002/0070574 to Carlsson et al. ("Carlsson").

Applicant has amended Claims 1 and 11 and has cancelled Claims 3 and 13 as indicated above to further highlight Applicant's invention. Applicant respectfully traverses the rejections under 35 U.S.C. §102 and §103 for at least the reasons set forth below.

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### §102 Rejections Are Overcome

A claim is anticipated under 35 U.S.C. §102 if each claimed element is found in a single prior art reference. *Scripps Clinic & Research Foundation v. Genentech, Inc.*, 927 F.2d 1565, 1576 (Fed. Cir. 1991); *Carella v. Starlight Archery and Pro Line Co.*, 804 F.2d 135, 138 (Fed. Cir. 1986). There must be no difference between the claimed invention and the reference disclosure, as viewed by an ordinary artisan. *Scripps Clinic & Research Foundation v. Genentech, Inc.*, 927 F.2d at 1576.

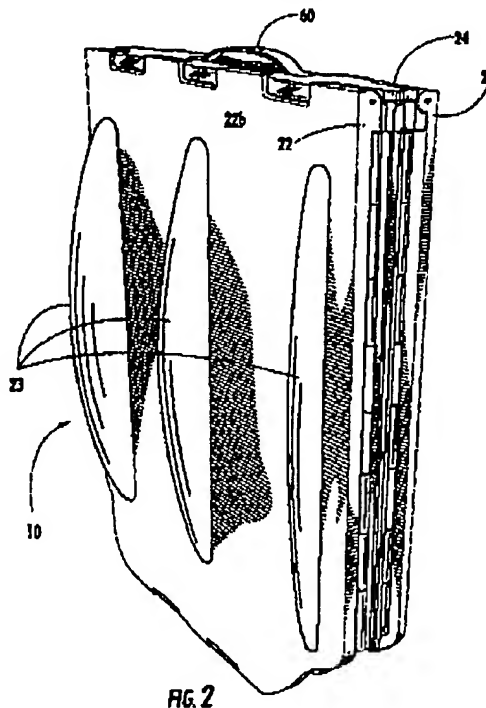
Applicant's amended independent Claim 1 recites a collapsible cargo storage apparatus, comprising:

a base ..., wherein the base comprises opposite upper and lower surfaces, opposite front and rear portions, and opposite side portions, and wherein the *base lower surface comprises a plurality of elongated, convex ribs of differing sizes extending therefrom in spaced-apart relationship*, ...;

a front panel pivotably attached to the base front portion via a hinge; and  
a rear panel pivotably attached to the base rear portion via a hinge;

wherein the front and rear panels are each movable between a stored position and an operative position....

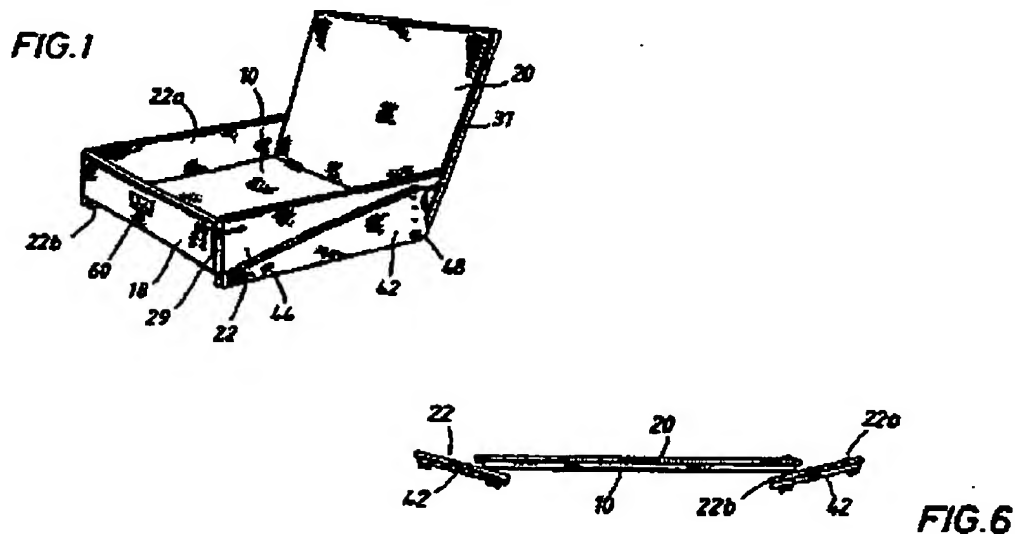
Applicant's amended independent Claim 11 contains similar recitations. Fig. 2 from Applicant's application is set forth below.



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As shown in Fig. 2 above, each base panel lower surface 22b includes a plurality of ribs 23 of differing sizes and shapes. These ribs 23 provide each respective base panel 22 with contour that matingly engages a respective seating area of a vehicle seat. The ribs 23 are configured to help maintain the storage apparatus 10 in a seat and to help prevent movement of the storage apparatus 10 during vehicle movement. In addition, the ribs 23 may have a configuration that allows the each base panel upper surface 22a to be substantially horizontal when the storage apparatus is installed on a vehicle seat. For example, the ribs 23 may have a tapered configuration that counters a sloped configuration of a vehicle seat. (Applicant's Specification, Page 9, Line 25 - Page 10, Line 4).

The Reid apparatus fails to teach a base lower surface having *a plurality of elongated, convex ribs of differing sizes extending therefrom in spaced-apart relationship* Figs. 1 and 6 from Reid are set forth below.



Clearly, the lower surface of the base 10 has a planar lower surface and does not have any ribs extending therefrom. The Reid apparatus does include wing panels 42 each of which lies against the outer face of a respective one of the side panels 22. However, clearly these wing panels do not extend from the lower surface of the base 10. As viewed by the ordinary artisan, there is a

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great difference between Applicant's ribs that extend from the base panel lower surface as claimed in amended independent Claim 1 and the wing panels of the Reid apparatus. Thus, because Reid does not disclose all of the recited elements of independent Claim 1, Claim 1 and all claims depending therefrom are not anticipated by Reid.

Applicant's dependent Claim 5 recites that the front and rear panels are pivotably attached to the base panel via respective hinges, and wherein the *hinges are configured to bias the front and rear panels to respective operative positions*. Reid does not teach hinges that bias (*i.e.*, urge) the panels of the Reid apparatus to the operative positions. In fact, Reid requires the use of hooks 38 and eyelets 40 to maintain the various panels in upright positions. When the hooks 38 are released from the eyelets 40, the panels collapse outwardly. (Reid, Col. 6, Lines 8-20, and Figs. 1 and 4). Applicant respectfully requests that a specific passage of Reid be identified that teaches hinges that urge the panels of the Reid apparatus to operative positions. Because Reid does not disclose all of the recited elements of Claim 5, Claim 5 is not anticipated by Reid.

In view of the above, the rejections under 35 U.S.C. §102 are overcome.

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### **§103 Rejections Are Overcome**

A determination under §103 that an invention would have been obvious to someone of ordinary skill in the art is a conclusion of law based on fact. *Panduit Corp. v. Dennison Mfg. Co.* 810 F.2d 1593, 1 U.S.P.Q.2d 1593 (Fed. Cir. 1987), *cert. denied*, 107 S.Ct. 2187. After the involved facts are determined, the decision maker must then make the legal determination of whether the claimed invention as a whole would have been obvious to a person having ordinary skill in the art at the time the invention was unknown, and just before it was made. *Id.* at 1596. The United States Patent and Trademark Office (USPTO) has the initial burden under § 103 to establish a *prima facie* case of obviousness. *In re Fine*, 837 F.2d 1071, 5 U.S.P.Q.2d 1596, 1598 (Fed. Cir. 1988).

To establish a *prima facie* case of obviousness, the prior art reference or references when combined must teach or suggest *all* the recitations of the claims, and there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. M.P.E.P. § 2143. The mere fact that references can be combined or modified does not render the resultant combination obvious unless the prior art also suggests the desirability of the combination. M.P.E.P. § 2143.01(citing *In re Mills*, 916 F.2d 680, 16 U.S.P.Q.2d 1430 (Fed. Cir. 1990)). As emphasized by the Court of Appeals for the Federal Circuit, to support combining references, evidence of a suggestion, teaching, or motivation to combine must be **clear and particular**, and this requirement for clear and particular evidence is not met by broad and conclusory statements about the teachings of references. *In re Dembiczak*, 50 U.S.P.Q.2d 1614, 1617 (Fed. Cir. 1999). In an even more recent decision, the Court of Appeals for the Federal Circuit has stated that, to support combining or modifying references, there must be **particular evidence** from the prior art as to the reason the skilled artisan, with no knowledge of the claimed invention, would have selected these components for combination in the manner claimed. *In re Kotzab*, 55 U.S.P.Q.2d 1313, 1317 (Fed. Cir. 2000).

Furthermore, as recently stated by the Federal Circuit with regard to the selection and combination of references:

This factual question of motivation is material to patentability, and could not be resolved on subjective belief and unknown authority. It is improper, in determining

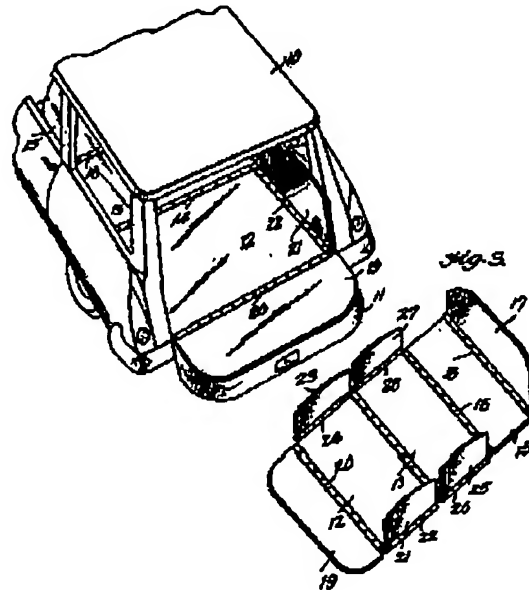
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whether a person of ordinary skill would have been led to this combination of references, simply to "[use] that which the inventor taught against its teacher." W.L. Gore v. Garlock, Inc., 721 F.2d 1540, 1553, 220 USPQ 303, 312-13 (Fed. Cir. 1983). Thus the Board must not only assure that the requisite findings are made, based on evidence of record, but must also explain the reasoning by which the findings are deemed to support the agency's conclusion....

*In re Sang Su Lee*, 277 F.3d 1338, 1343 (Fed. Cir. 2002).

Applicant's amended independent Claims 1 and 11 each recite a base lower surface having a *plurality of elongated, convex ribs of differing sizes extending therefrom in spaced-apart relationship*. The Yudenfreund, Pavia and Carlsson references, alone or in combination, fail to teach or suggest a base lower surface having a plurality of elongated, convex ribs of differing sizes extending therefrom in spaced-apart relationship.

The Yudenfreund apparatus, illustrated below, mounts on the cargo deck of a station wagon. The bottom panels of the Yudenfreund apparatus do not have a plurality of elongated, convex ribs of differing sizes extending therefrom in spaced-apart relationship. Moreover, there is no discussion or suggestion in Yudenfreund that the Yudenfreund apparatus bottom panels should be configured to matingly engage a concave contour of the cargo deck of a station wagon. Yudenfreund simply discusses placing the apparatus on a flat cargo deck.



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Carlsson describes a loading compartment in the rear of a vehicle. Carlsson does not describe or suggest a cargo storage apparatus for a vehicle seat. Moreover, Carlsson fails to teach or suggest an apparatus having a base lower surface having a plurality of elongated, convex ribs of differing sizes extending therefrom in spaced-apart relationship.

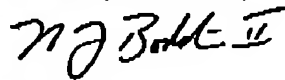
Pavia describes sheet metal ducting stiffened by a plurality of integral ribs. The ribs extending from the Pavia ducting are uniform in configuration and do not have differing sizes. Moreover, the ribs of the Pavia ducting are to provide strength to the ducting, not to allow the ducting to matingly engage a contoured surface. One skilled in the art of storage apparatus for vehicles would not look to the ducting art for ways of contouring a storage apparatus to matingly engage with a vehicle seat.

Moreover, none of the cited references even recognize the problem solved by Applicant's invention, *i.e.*, that an apparatus disposed on the seating area of a seat can move during vehicle movement. As such, there is no teaching or suggestion of ways to solve this unrecognized problem in the references.

Accordingly, Applicants respectfully request withdrawal of the present rejections under 35 U.S.C. §103.

In view of the above, it is respectfully submitted that this application is in condition for allowance, which action is respectfully requested.

Respectfully submitted,



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**CERTIFICATION OF FACSIMILE TRANSMISSION UNDER 37 CFR § 1.8**

I hereby certify that this correspondence is being transmitted by facsimile to the U.S. Patent and Trademark Office on April 18, 2005 via facsimile number 703-872-9306.

  
Erin A. Camplon